REMARKS/ARGUMENTS

Claims 1-15 are pending in the present application.

This Amendment is in response to the Final Office Action mailed January 7, 2009 and Advisory Action dated March 24, 2009, to support a Request for Continued Examination (RCE) filed concurrently. In the Final Office Action, the Examiner provisionally rejected claims 1-4 under nonstatutory double patenting rejection; and rejected claims 1-15 under 35 U.S.C. §102(b). Applicant has amended claims 1 and 5. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Request for an Examiner's Interview

Applicant respectfully requests the Examiner to contact the undersigned attorney in the event that, after review of the arguments presented, the Examiner is not in full agreement that the pending claims are in condition for allowance. The undersigned attorney believes that such discussions will facilitate prosecution of the subject application. The undersigned attorney can be reached at the telephone number listed below.

Double Patenting

In the Advisory Action, the Examiner indicated the double patenting rejection will be withdrawn pending approval of the Terminal Disclaimer.

Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection.

Rejection Under 35 U.S.C. § 102

In the Final Office Action, the Examiner rejected claims 1-15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,157,719 issued to Wasilewski et al. ("Wasilewski"). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a *prima facie* case of anticipation.

Wasilewski does not disclose: "an access control means for generating access control information for access control service and a control word," as recited in claim 1 (and "a control information providing means for generating control information…", as recited in claim 12);

"copy control information (CCI)," "a broadcasting flag (BF)," and "a retention information (RI)," as recited in claims 1 and 5.

To anticipate a claim, the reference must teach every element of a claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Vergegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Wasilewski teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Wasilewski merely discloses the control word generator 203 generating the control word (CW) 202 (Wasilewski, col. 6, lines 33-34; Figure 2A). The Examiner alleges that the control word generator 203 is equivalent to the "access control means" or the "control information providing means" (Office Action, page 6 and 9). Applicant respectfully disagrees. The control word generator 203 can be either a physically random number generator or can use a sequential counter with a suitable randomization algorithm to produce a stream of random CWs (Wasilewski, col. 6, lines 34-37). In contrast, the claim recites: "an access control means for generating access control information for access control service and a control word for scrambling," (claim 1) and "a control information providing means for generating control information for recording storage, temporary storage, and playback of a broadcasting content" (claim 12). Since the control word generator 203 merely produces random CWs, there is no teaching that the control word generator 203 also generates control information. Accordingly, Wasilewski fails to disclose this element of the claims.

Furthermore, the CW 202 is applied to the clear MPEG-2 program by the program encrypt 201 (Wasilewski, col. 6, lines 32-42), not to a multiplexed transport stream, as recited in claim 1. Each elementary stream is encrypted and the resulting encrypted stream is sent to MUX 200 to be combined with other streams and private data (Wasilewski, col. 6, lines 28-32). Since it is sent to the MUX 200, the encrypted stream is not a multiplexed transport stream.

In the Final Office Action, the Examiner states that "the Examiner is not equating the control word generator 203 to the access control information". Applicant respectfully submits

that based on our review of the cited portions of Wasilewski, the Examiner must be alleging that the control word generator 203 corresponds to the access control means (and not the access control information) since the access control means generate a control word, as delineated in the claims.

Moreover, Wasilewski merely discloses control word 117 being produced by a control word generator 119 from information contained in entitlement control message 107 and information from authorization information 121… the control word generator 119 uses the key together with information from ECM 107 to generate the control word 117… (Wasilewski, col. 6, lines 32-35). The CW is then combined into an ECM 107… the ECM 107 is authenticated… which produces a message authentication code using a keyed hash value derived from the message content combined with a secret… [which] is preferably part or all of the MSK 208 (Wasilewski, col. 6, lines 43-50). In the Final Office Action, the Examiner alleges that "the Examiner is relying on the ECM 107 in combination with the message authentication code and MSK 208 to teach "access control information"" (Final Office Action, page 3). Applicant respectfully disagrees and submits that claim 1 recites: "an access control means for generating access control information for access control service and a control word".

As discussed above, in Wasilewski, the control word generator 119, allegedly the access control means", produces the control word 117 from information contained in the ECM 107. The control word 117 is generated by the control word generator 119 based on the ECM 107. Wasilewski states:

> "A service distribution organization 103, for example a CATV company or a satellite television company, provides its subscribers with information from a number of services, that is, collections of certain kinds of information. For example, the History Channel is a service that provides television programs about history. Each program provided by the History Channel is an "instance" of that service. When the service distribution organization broadcasts an instance of the service, it encrypts or scrambles the instance to form encrypted instance 105. Encrypted instance 105 contains instance data 109, which is the encrypted information making up the program, and entitlement control messages (ECM) 107." (Wasilewski, col. 4, lines 17-35; Figure 1).

Accordingly, the control word generator 119, allegedly the access control means, does not generate the ECM 107, rather the ECM 107 is generated by the service distribution

organization 103. Thus, the ECM 107 cannot be the access control information, as delineated in the claim.

Additionally, the ECM 107 is authenticated to produce message authentication code. The message authentication code is thus produced by the authentication of the ECM 107, and not the access control means, allegedly the control word generator 119. Moreover, the secret which is part or all of the MSK 208 is used to produce the message authentication code. Accordingly, the MSK 208 also is not generated by the control word generator 119. Applicant respectfully submits that the none of the elements from Wasilewski that the Examiner is relying on ("the ECM 107 in combination with the message authentication code and MSK 208") are equivalent to "access control information since neither the ECM 107, the message authentication code, or MSK 208 is generated by an access control means, as delineated in the claim.

Similarly, "the ECM 107 in combination with the message authentication code and MSK 208" cannot disclose the control information as alleged by the Examiner because there is no teaching that "the ECM 107 in combination with the message authentication code and MSK 208" is generated by the control providing means, as delineated in claim 12.

In addition, Wasilewski merely discloses event NVSC 1701 being used to store entitlement information for events. Event NVSC 1701 contains Flag Field 1705 that includes flags to indicate (1) whether the event is active, (2) whether its end time has been extended, (3) whether the entitlement agent has confirmed purchase of the event, (4) whether the customer can cancel at any time, (5) whether the customer can cancel in a cancellation window, (6) whether the customer has canceled the purchase, (7) whether the right to copy the event has been purchased, and (8) whether the event is an analog or digital service (Wasilewski, col. 31, lines 12-25). The Examiner alleges that these flags are equivalent to the copy control information (CCI), broadcast flag (BF), and retention information (RI). Applicant respectfully disagrees.

Regarding claim 1, the claim recites: "a copy control information (CCI) generation means for generating copy control information," "a broadcasting flag (BF) generation means for generating broadcasting flag" and "a retention information (RI) generation means for generating retention information." There is no teaching or suggestion of means generating any of these flags contained within the Flag Field 1705, allegedly equivalent to the CCI, BF, and RI.

Applicant respectfully submits that while the Examiner alleges that "Wasilewski discloses generating the flags in Figure 17 and associated text" (Final Office Action, page 9), Wasilewski merely states that event NVSC 1701 contains Flag Field 1705 that includes flags. There is no teaching of means for generating any of these flags contained within the Flag Field 1705.

Regarding claim 5, the claim recites: "a control information processing means for processing a copy control information (CCI), a broadcasting flag (BF), a retention information (RI), which are storage and playback control information included in the descrambled transport stream, and storing and playing back the broadcasting content." There is no teaching or suggestion of a control information processing means for processing these flags contained within the Flag Field 1705 and storing and playing back the broadcasting content.

In the Final Office Action, the Examiner alleges that "the terms "broadcasting flag", "copy control information" and "retention information" are not specifically defined in the claim language" (Final Office Action, pages 4-5). Applicant respectfully directs the Examiner's attention to the claims language as recited herein and the corresponding language in the specification.

Moreover, Applicant respectfully submits that claim 1 recites: "a copy control information (CCI) generation means for generating copy control information," "a broadcasting flag (BF) generation means for generating broadcasting flag" and "a retention information (RI) generation means for generating retention information." *Emphasis Added.* While the Examiner argues that the terms are not specifically defined in the claims, Applicant believes that these terms are common such that they would be understood by a person skilled in the art. Additionally, claim language must be read in light of the specification. Here, for example, the specification recites: "the CCI 201 [control copy information] is information for determining whether a broadcasting content can be copied or not" (Specification, par. [0028]); "the BF 202 [broadcasting flag] is an identifier which indicates that the content is an authentic content. It is used to limit the use of the content to the purpose of broadcasting only. In short, it is information that tells whether the content is a broadcasting content or not" (Specification, par. [0029]); the RI 203 [retention information] indicates retention time of a broadcasting content, when the broadcasting content is stored in the hard disk of the receiver" (Specification, par. [0030]).

Moreover, Applicant respectfully submits that our argument pertains to the lack of means for generating the broadcasting flag, the copy control information and the retention information. The Examiner merely alleges that the flags contained in the Flag Field 1705 are equivalent to the copy control information (CCI), broadcast flag (BF), and retention information (RI) but Wasilewski fails to teach means generating any of these flags contained within the Flag Field 1705.

Therefore, Applicant believes that independent claims 1, 5, and 12 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. §102(b) be withdrawn.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: April 7, 2009

By/ eric s. hyman/
Eric S. Hyman
Reg. No. 30,139
Tel.: (310) 207-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025